



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**FILED**

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Application of California-American Water Company (U-210-W) (1) to issue, sell and deliver to one or more affiliated entities not exceeding in the aggregate \$187,000,000 of any combination of (a) shares of its common stock and (b) debt securities consisting of long term notes; and (2) exempting the issuance, sale and delivery of such stock and debt securities from the Commission's competitive bidding rule.

A. 06-05-005  
(Filed May 5, 2006)

**MOTION OF THE DIVISION OF RATEPAYER ADVOCATES  
TO ACCEPT A LATE-FILED PROTEST IN  
APPLICATION 06-05-005; (PROTEST ATTACHED)**

**I. INTRODUCTION**

Pursuant to Rules 45, 63, and 87 of the California Public Utilities Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates ("DRA") hereby requests that its late-filed protest in Application ("A.") 06-05-005 be accepted for filing. DRA, on June 16, 2006 filed a motion to withdraw its June 9, 2006 motion to consolidate A.06-05-005 with A.06-05-022. In its June 9th motion, DRA mistakenly requested A.06-05-005 be consolidated into A.06-05-022 instead of A.06-05-025. However, after further review of the two applications (A.06-05-005 and A.06-05-025), DRA has concluded that a motion to consolidate the two proceedings is no longer necessary.

A.06-05-005 seeks Commission approval for California-American Water Company (1) to issue, sell and deliver to one or more affiliated entities not exceeding \$187,000,000 of any combination of (a) shares of its common stock and (b) debt securities consisting of long term notes; and (2) exempting the issuance,

sale and delivery of such stock and debt securities from the Commission's competitive bidding rule.

In A.06-05-025, California-American Water Company ("Cal-Am"), RWE Aktiengesellschaft ("RWE"), Thames Water Aqua Holdings GmbH ("Thames Water"), and American Water Works, Inc. ("American Water") seek Commission authority for the sale by Thames GmbH of up to 100% of the common stock of American Water Works Company, Inc., which would result in a change in control of Cal-Am.

In this motion, A.06-05-005 will be referred to as Cal-Am's "stock issuance" application and A.06-05-025 will be referred to as its "change in control/divestiture" application.

**II. AFTER REVIEW OF CAL-AM'S OPPOSITION MOTION TO DRA'S MOTION TO CONSOLIDATE, DRA HAS CONCLUDED THAT A MOTION TO CONSOLIDATE IS NO LONGER NECESSARY.**

Initially, DRA presumed that Cal-Am filed its stock issuance application as a result of the proposed sale of American Water. However, as Cal-Am's opposition motion<sup>1</sup> to DRA's Motion to consolidate clarified, Cal-Am's intention with A.06-05-005 is to use the borrowing authority to discharge or refinance a portion of its existing indebtedness and for the construction, completion, and improvement of Cal-Am's facilities, and thus is unrelated to its initial public offering request. Cal-Am's motion also stated that only \$8 million of the \$187 million is being refinanced specifically due to RWE's divestiture of American Water. Thus, the balance of the \$179 million refinancing would be required with or without the change in control/divestiture application. *See* Page 5.

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<sup>1</sup> Cal-Am filed an Opposition Motion to DRA's Motion to Consolidate on June 13, 2006.

**III. DRA IS FILING A LATE PROTEST BECAUSE IT IS CLEAR  
A.06-05-005 WILL IMPACT CAL-AM'S CAPITAL  
STRUCTURE.**

Upon further review of the application and Cal-Am's clarifications made in its motion, it is apparent that Cal-Am's stock issuance application will impact Cal-Am's capital structure.

As described in greater detail in DRA's late-filed protest, American Water owns Cal-Am's stock and American Water is owned by Thames Water, which is a wholly-owned subsidiary of RWE. Thus, American Water's equity is currently held by a subsidiary of RWE. The change in control/divestiture, however, will impact American Water's capital structure substantially because it will no longer be a wholly-owned subsidiary, but instead a publicly-traded company. This will affect its credit terms as well as American Water's capital structure. Moreover, Cal-Am's new offering will be issued at a time when interest rates are substantially higher than they were when RWE initially acquired Cal-Am.

Thus, these changes more than likely will affect the terms of debt that American Water can offer Cal-Am and affect the amount of capital available to American Water, which could then again affect its investment in Cal-Am's equity. Therefore, the stock issuance application will impact Cal-Am's capital structure. In order to ensure that Cal-Am's ratepayers do not pay more for their capital structure than necessary, a full review of Cal-Am's stock issuance request is required under this proceeding.

#### **IV. CONCLUSION**

For the above-stated reasons, DRA respectfully requests the Commission grant DRA's motion to accept DRA's late-filed protest in A.06-05-005.

Respectfully submitted,

/s/ SELINA SHEK

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SELINA SHEK  
Staff Counsel

Attorney for the Division of  
Ratepayer Advocates

California Public Utilities  
Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-2423  
Fax: (415) 703-2262

June 28, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the **MOTION OF THE DIVISION OF RATEPAYER ADVOCATES TO ACCEPT A LATE-FILED PROTEST IN APPLICATION 06-05-005; (PROTEST ATTACHED)** in **A.06-05-005** and **A.06-05-025** by using the following service:

☒ E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

☐ U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on June 28, 2006 at San Francisco, California.

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/s/ NANCY SALYER

Nancy Salyer

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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A.06-05-005 & A.06-05-025

[LDolqueist@steefel.com](mailto:LDolqueist@steefel.com)

[flc@cpuc.ca.gov](mailto:flc@cpuc.ca.gov)

[mfg@cpuc.ca.gov](mailto:mfg@cpuc.ca.gov)

[rbloor@amwater.com](mailto:rbloor@amwater.com)

[dstephen@amwater.com](mailto:dstephen@amwater.com)

[sel@cpuc.ca.gov](mailto:sel@cpuc.ca.gov)